IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

WP(C).No. 11757 of 2006(Y)

PETITIONER:

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1. ABSUL AZEEZ, S/O.MOHAMMEDALI,
   S.M.A.MANZIL, ANAPPETTY, CHITTUVEETTU MURI,
   THOLIKKODE VILLAGE.

2. SHYLA BEEEVI, W/O.ABDUL AZEEZ,
   S.M.A.MANZIL, ANAPPETTY, CHITTUVEETTU MURI,
   THOLIKKODE VILLAGE, NEDUMANGAD VILLAGE.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS:

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1. THOLICODE GRAMA PANCHAYATH,
   REPRESENTED BY ITS SECRETARY, THOLICODE P.O.
   TRIVANDRUM.

2. ABUBAKEER KUNJU, S/O.MOHAMMEDALI,
   SANU MANZIL, KOTTIYATHARA, KOTTAKKARA MURI,
   VITHURA VILLAGE, NEDUMANGAD TALUK.

BY ADV. SRI.RAM MOHAN.G. (R1)
SRI.G.P.SHINOD
SRI.MANU V.
SRI.T.A.UNNIKRISHNAN (R2)
SRI.K.SATHEESH KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.11757/2006

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1: COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE THOLICODE VILLAGE OFFICER INF AVOUR OF THE 2ND PETITIONER DATED 14.3.2006

EXT.P2: COPY OF the DECREE IN O.S. NO.76/1999 DATED 20.11.2003

EXT.P3: COPYOF the JUDGMENT IN W.P.(C) NO.4198/2006 DATED 14.2.2006

EXT.P4; COPY OF THE LAWYER NOTICE ISSUED BY THE PETITINERS TO THE RESPONDENT PANCHAYATH DATED 16.3.2006

EXT.P5; COPY OF THE NOTICE NO. A4-398/06 DATED 22.3.2006 ISSUED TO THE 1ST RESPONDENT PANCHAYATH.

RESPONDENTS EXHIBITS:

EXT.R1(A): COPY OF THE LETTER NO.A4-398/06 DATED 16.3.2006 ISSUED BY THE SECRETARY OF THOLICODE GRAMA PANCHAYAT TO THE TAHSILDR, NEDUMANGAD.

EXT.R1(B): COPY OF THE LETTER NO. A4-398/06 DATED 12.6.2006 ISUED BY THE SECRETARY OF THOLICODE GRAMA PANCHAYAT TO THE TAHISLDAR, NEDUMANGAD.

EXT.R1(C): COPY OF THE LETTER NO. G3.7615/2006 DATED 19.8.2006 ISSUED BY THE ADDITIONAL TAHSILDAR, NEDUMANGAD TO THE SECRETARY OF THOLICODE GRAMA PANCHAYAT.

EXT.R1(D): COPY OF the SURVEY REPORT NO. G3 7615/06 DATED 1.11.2006 SUBMITTED TO THE FIRST RESPONDENT PANCHAYAT BY THE ADDITIONAL TAHSILDAR, NEDUMANGAD.

EXT.R1(E): COPY OF THE SKETCH ATTACHED TO EXHIBIT R1 (D) SURVEY REPORT.

PIUS C.KURIAKOSE, J.

W.P.(C)NO. 11757 of 2006

Dated this 19th day of December, 2006

JUDGMENT

Heard both sides. Both the prayers which are sought for in the writ petition pertain to the legality of Ext.P5 notice issued by the Panchayat by which the petitioners are is directed not to cut and remove the trees standing on the disputed property before survey of the entire property is conducted. In view of the interim order passed by this court survey was conducted and Ext.R1 (d) report and Ext.R1(e) plan are submitted on the basis of the survey conducted. Ext.R1(d) and R1 (e) will show that the property belongs to the first respondent Panchayat. This being the position, both the reliefs of the petitioner have virtually become infructuous. If the petitioners are aggrieved by Ext.R1(d) and R1 (e), it is for them to pursue their statutory remedies against Exts.R1(d) and R1 (e). This writ petition will stand closed. However, there will be a direction that the status quo obtaining as of now in respect of

the property in question will be maintained for a period of two more months from today.

PIUS C.KURIAKOSE
Judge

dpk